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Attorney for Defendant
JAN ANTHONY BORRA

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAN ANTHONY BORRA,

Defendant.

No. 1:02cr05468 AWI

STIPULATION ON REMAND TO OPT OUT OF
RESENTENCING UNDER *UNITED STATES*
v. *AMELINE* AND ORDER

Judge: Honorable Anthony W. Ishii

WHEREAS the Ninth Circuit Court of Appeal has issued its memorandum opinion in the *United States v. Jan Anthony Borra*, No. 03-10374, attached hereto as Exhibit "A," which remanded the case back to this court for a limited remand under *United States v. Ameline*, 409 F.3d 1073, 1084-85, the parties wish to enter into the following stipulation:

The parties hereto through their respective counsel, United States of America, through its representative, Mark E. Cullers, Assistant United States Attorney, and the defendant, Jan Anthony Borra, and his attorney, Assistant Federal Defender Robert W. Rainwater, hereby stipulate to the following:

1. On issuance of the mandate in the above entitled matter the defendant, Jan Anthony Borra, does not wish to pursue resentencing and under the holding in *Ameline, supra* at 1084, elects to opt out of resentencing by the district court. Counsel for Mr. Borra has spoken with him in person and this is his request. Mr. Borra has currently finished his term of imprisonment and is living in Fresno. In light of the

fact that he has been released from custody Mr. Borra does not believe that a resentencing will effect his sentence and therefore request that a new hearing not be held.

2. Both parties agree that the district court should allow Mr. Borra to opt out of a resentencing hearing. Mr. Borra's sentence would remain as previously imposed. All other terms of the judgement and sentence shall remain the same.

McGREGOR W. SCOTT
United States Attorney

Dated: February 27, 2007

By /s/ Mark E. Cullers
Mark E. Cullers
Assistant U. S. Attorney
Attorney for Plaintiff

DANIEL J. BRODERICK
Federal Defender

Dated: February 27, 2007

By /s/ Robert W. Rainwater
ROBERT W. RAINWATER
Assistant Federal Defender
Counsel for Defendant
JAN ANTHONY BORRA

ORDER

IT IS SO ORDERED.

Dated: February 28, 2007
0m8i78

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE